



(916) 443-4380

March 17, 1978

Mr. Glen McDougal  
Yuba County Assessor  
215 Fifth Street  
Marysville, CA 95901

Dear Mr. McDougal:

**Applicability of 18 California  
Administrative Code 301-326**

Your inquiry of March 13, 1978, requested an opinion as to whether your County Board of Supervisors, sitting as a board of equalization, is subject to the provisions of the California Administrative Code.

Our response is in the affirmative. California Government Code, section 15606, provides in pertinent part:

The State Board of Equalization shall:  
(c) Prescribe rules and regulations to govern local boards of equalization when equalizing, and assessors when assessing.

The statute is clear and unambiguous on its face and its effect is further supported by the enforcement provisions of subsection (h).

There is but one exception to this provision and that is found in California Constitution, Article XIII, section 16, paragraph 3, wherein the Supervisors are empowered to adopt rules of notice and procedures for assessment appeals boards if the Supervisors have chosen not to sit as a board of equalization. However, even under this option applicable counties have adopted the SBE rules with minor modification as to technical matters.

You further question the propriety of rescheduling a hearing for an applicant who failed to appear at the time and place in accord with formal notice. Rule 313, Hearing Procedure, contains the controlling provision:

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(a)...If the notice has been given and neither the applicant nor his agent is present, the application shall be denied for lack of appearance, or, for good cause of which the board is timely informed, the board may postpone the hearing.... (Emphasis added.)

The latter underlined sections are properly subject to interpretation by the local board but as in all tax matters, the interpretation should be strict but reasonable. In our view the failure of an applicant's secretary to remind him of the hearing time does not constitute good cause and if that is the applicant's sole ground for his failure to appear, the application should properly be denied.

Very truly yours,

J. J. Delaney  
Chief Counsel

5.11.73 JJD:fp

cc: Mr. James Reichle  
Deputy County Counsel

bc: Mr. Abram F. Goldman  
Mr. Jack F. Eisenlauer (Alan Flory)  
Legal Section